



Town of Hopkinton

Planning Department

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HOPKINTON ZONING BOARD OF ADJUSTMENT NOTICE OF DECISION OCTOBER 5, 2021

Notice is hereby given that the Hopkinton Zoning Board of Adjustment met on Tuesday, October 5, 2021, at 5:40 PM in the Hopkinton Middle/High School, 297 Park Avenue, and made the following decision(s):

I. Application(s).

#2021-9 Baystone Properties, LLC Special Exception to permit one building with twelve (12) dwelling units at 71 Cedar Street, Tax Map 102 as Lot 35, VR-1 district, per Zoning Ordinance 3.6.A.3 and 4.4.7.

Jessica Scheinman, seconded by Kristen Cummings, moved to **DENY** Application #2021-9 as presented. Motion passed unanimously by Roll Call vote: Lipoma – yes, Cummings – yes, Buck – yes, Locke – yes, and Scheinman – yes. All criteria for a Special Exception outlined in Section XV of the Zoning Ordinance were not satisfied.

Reasons for denial:

- (a) The proposed development (12-units) is not permitted by Special Exception. While recognizing a conflict in the Zoning Ordinance between Table of Uses 3.6.A.3 (12-units) and Section 4.4.7 (8-units), a review of Section 3.6.2 indicates that the more restrictive provision applies.
- (b) There was no information provided to show that there would not be a hazard to the public or adjacent property because of potential fire, explosion, or release of toxic materials. The inability of a fire truck to drive under the skywalk to access portions of the property/building during an emergency and the lack of information on heating fuel type and location of storage shows that there would be a potential hazard to the public or adjacent property on account of a possible fire.
- (c) The proposed development would be a detriment to property values and change the neighborhood's essential characteristics when considering the project's scope, scale, and size. Note: The proposed development does not meet the open space requirement of 30 percent referenced in Zoning Ordinance Table 4.2.
- (d) The addition of a minimum of 24 vehicles/trips would create a substantial increase in traffic congestion and a traffic safety hazard, especially when considering the limited line of sight at the street curve and congestion at the end of the street when turning one way into the center of the village. In addition, the substantial increase in traffic will adversely affect pedestrians that utilize the street without the availability of a sidewalk.

Notice of Decision is subject to review and approval.

- (e) As shown on the grading plan, there would be a significant amount of runoff onto the adjacent property. Furthermore, the Applicant represented the need for a drainage easement. Note: While the Board was aware that the Developer owns the adjacent property, the Board agreed that the runoff is still significant and on the adjacent property.
- (f) Based on the project's scope and scale, the location would not be appropriate for the proposed use, as indicated in (a) through (e).
- (g) Based on the scope and scale of the project on the lot and within the neighborhood, the health and safety of residents and others in the area would be adversely affected, especially during an emergency, when a fire truck is not able to drive under the skywalk to access the property/building. Furthermore, the health and safety of residents and others in the area will be adversely affected by the substantial increase in traffic along a street with a limited line of sight at the street curve and congestion at the end of the street when turning one way into the village center. In addition, the substantial increase in traffic will adversely affect pedestrians that utilize the street without the availability of a sidewalk.
- (h) Based on the reasons previously stated in (a) through (g), the proposed project would not be in the public interest and the spirit of the Ordinance. Note: It appears that the scope and scale of the project preclude the minimum percent of open space/lot (30%) from being satisfied.

#2021-10 T. F. Bernier, Inc. Variance from Zoning Ordinance 4.2 to permit one lot having less than the required contiguous frontage. The property is owned by John H. Lynch Irrevocable Trust of 2012, located off Gould Hill Road, Tax Map 240 as Lot 51, R-2, and R-3 districts.

Kristen Cummings, seconded by Andrew Locke, moved to **DENY** Application #2021-10 as presented. Motion passed unanimously by Roll Call vote: Lipoma – yes, Cummings – yes, Buck – yes, Locke – yes, and Scheinman – yes. All criteria for a Variance outlined in Section XV of the Zoning Ordinance were not satisfied.

Reasons for denial as follows:

- (a) Granting the Variance would not be within the spirit of the Ordinance. The cumulative impact of granting the Variance, allowing lots created with non-continuous frontage, might be significant when considering the possibility that owners of other properties similarly situated may come forward for the same Variance.
- (b) Substantial Justice would not be done by granting the Variance. Based on the Applicant's representation that the lot was recently subdivided, creating Lot 51.2, the property owner has not incurred any injustice or loss.

Denial of the Variance would not preclude the owner from utilizing the property for residential purposes in a manner that is consistent with other uses in the neighborhood.

- (c) Unnecessary Hardship: There are no special conditions that distinguish the property from others in the area. What the Applicant believes distinguishes the property from others is self-made or of the owner's own doing, as the owner recently subdivided the property, reducing the frontage available for further subdivisions along Gould Hill Road.

Recognizing that the lot is a large parcel, the lot was even larger before the owner subdivided the parcel, creating Lot 51.2. The property, in its present condition, 147.59 acres with a frontage of 236.39 feet along Gould Hill Road and frontage of 45.39 feet along Briar Hill Road, can reasonably be used for residential purposes. Use of the property for residential purposes would be consistent with other uses in the area and in strict conformance with the Zoning Ordinance.

The concept of a building lot and the construction of a single-family residence is reasonable. Creating a lot with insufficient frontage, which deviates from the voters' wishes, is not reasonable. Note: The property owner, on more than one occasion, has subdivided the property.

Karen Robertson
Planning Director

Ordinance §15.10: "Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."